IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.1.2007

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THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.46601 of 2002

A.E.Zaffrullakhan .. Petitioner

vs.

1. The Joint Registrar of Co-op.
   Societies,
   Coimbatore Region,
   Chinthamani Building,
   Coimbatore.

2. K.2086-Molakalipalayam Primary
   Agricultural Co-operative Bank,
   Koduvettipalayam Post,
   Karumathampatti via.,
   Palladam Taluk,
   Coimbatore District,
   rep. By its Special Officer. .. Respondents

Writ petition filed under Article 226 of the Constitution of India as stated therein.

For petitioner : Mr.S.Doraisamy
For respondents : Mr.C.Thirumaran
Government Advocate for R1
Mr.M.S.Palanisamy for R2

O R D E R

The writ petition has been filed for the issuance of a writ of certiorarified mandamus to call for the records relating to the order passed in Review Petition in Ma.Aa.Ma.No.8655/2002/Ve.4, dated 22.11.2002, and consequential orders passed in Revision Petition in Se.Ma.No.16731/2001/Ve.4, dated 16.4.2002, both on the file of the first respondent confirming the order passed by the second respondent, dated 10.7.2001, and the order of termination, dated 21.4.2001, by the second respondent, quash the same and direct the respondents to reinstate the petitioner in service.

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The brief facts of the case, as stated by the petitioner, are as follows:

2. The petitioner was working as a Secretary in the second respondent Bank. During the month of December, 2000, a dispute had arisen between the petitioner and the former President of the Bank, due to which he had obtained a resignation letter from the petitioner, under threat. Since the petitioner did not oblige him for his illegal demands, he had utilised the undated resignation letter and had filled up the date as 12.4.2001. On 20.4.2001, he had passed a resolution in the Committee accepting the alleged resignation letter. Immediately thereafter, the then President of the second respondent Bank had directed the petitioner to leave the office. Therefore, the petitioner had written a letter to the second respondent on the same day, seeking for medical leave till 30.4.2002. On 21.4.2001, the second respondent Bank had written to the petitioner stating that his resignation was accepted and that he was relieved from service from 21.4.2001. On 27.4.2001, the second respondent had published a statement in the 'Daily Thanthi' News Paper stating that the petitioner had been removed from service and thereby, he had warned the public not to have anything to do with the petitioner. On 16.5.2001, the petitioner had written to the second respondent Bank objecting to the passing of the resolution and for acting upon the alleged resignation letter and he had also requested the second respondent to permit him to continue in service. The petitioner had caused a legal notice to the second respondent, on 17.5.2001, marking a copy to the first respondent. On 19.5.2001, the Committee of the second respondent Bank was superceded and a Special Officer had taken charge of the administration of the second respondent Bank, on 23.5.2001. On 4.6.2001, the petitioner had addressed to the second respondent Bank to cancel the order of termination and had also sent a reminder, on 13.6.2001. The second respondent Bank had rejected the petitioner's request, on 13.7.2001. A Revision Petition had been filed before the first respondent, on 30.7.2001 and the same had been rejected, on 16.4.2002. Thereafter, the petitioner had filed a Review Petition, on 2.5.2002, which was rejected by the first respondent, on 22.11.2002. Hence, the petitioner had filed the present writ petition.

3. While challenging the impugned orders of the respondents, it was stated that the second respondent had passed a resolution, on 20.4.2001, stating that the petitioner had submitted his resignation letter, on 12.4.2001. It was also stated by the petitioner that even as early as 15.2.2001, he had written to the then President of the second respondent Bank that the undated resignation letter obtained by the second respondent should be cancelled. The then president of the second respondent Bank did not reply to the petitioner's letter, dated 15.2.2001, which makes it clear that the petitioner has not given any resignation letter, on 12.4.2001, as alleged. Further, it has been stated that the respondents had not considered the claim made by the petitioner that he had not given any resignation letter, which has been emphasised in his legal notice sent, on 17.5.2001. It has also been

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stated that the petitioner being the Secretary of the Primary Agricultural Co-operative Bank, he would come under the common cadre of service, as contemplated by G.O.Ms.No.55, Co-operation, Food and Consumer Protection Department, dated 24.3.2000. The procedure contemplated under the regulation applicable to the Government Cadre of Service has not been followed with regard to the petitioner before his alleged resignation was accepted by the Management of the second respondent Bank.

4. In the counter-affidavit filed on behalf of the first respondent, it has been stated that the petitioner, while being employed as a Secretary of the second respondent Bank, had misappropriated a sum of Rs.4,08,715/-. When it was noticed by the Board of Directors of the second respondent Bank, the petitioner had remitted the entire amount. Thereafter, he had submitted his resignation letter, dated 12.4.2001. The issue of the petitioner's resignation was discussed by the Board of Directors during the meeting, held on 20.4.2001, and it had been resolved to accept the resignation submitted by the petitioner. After the Board of Directors had resolved to accept the resignation of the petitioner, the petitioner was relieved from his duties by an order, dated 21.4.2001, of the then President of the second respondent Bank. The claim of the petitioner that he had sent a letter, dated 15.2.2001, addressed to the second respondent is false.

5. A Revision Petition had been filed by the petitioner, under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983, before the first respondent. The first respondent had passed an order in his proceedings Rc.No.16731/2001/Ve.4., dated 16.4.2002. Aggrieved by the order passed by the first respondent, the petitioner had filed a Review Petition, under Section 154 of the Tamil Nadu Co-operative Societies Act, 1983. By an order, dated 22.11.2002, made in Review Petition No.8655/2002/Ve.4, the first respondent had dismissed the Review Petition. Against the said order, the petitioner has preferred the present writ petition.

6. In the counter affidavit filed on behalf of the second respondent, it has been stated that only because the petitioner was found to have misappropriated an amount of Rs.4,08,715/-, which had come to the knowledge of the Management of the second respondent, the petitioner had submitted his resignation, so that he could avoid the serious consequence including the criminal proceedings. The issue raised by the petitioner that he was under the common cadre of service contemplated by G.O.Ms.No.55, Co-operation, Food and Consumer Protection Department, dated 24.3.2000, cannot be canvassed by him as the said Government Order had been stayed in a batch of writ petitions in W.P.No.7081 of 2000 batch. The said order granted by this Court, on 16.4.2000, was vacated only, on 23.6.2003 and the Supreme Court had also dismissed the Special Leave Petition filed before it challenging the said Government Order, on 14.7.2004. The Government Order had been given

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effect to only from 18.8.2004.

7. Heard the learned counsels appearing for the petitioner as well as for the respondents.

8. The learned counsel appearing for the second respondent had contended that the petitioner had been signing the attendance register upto 18.4.2001 and only after his resignation had been accepted, he was relieved from his service and thereafter, the petitioner did not attend the Office. The petitioner's claim that he had sent a communication, dated 15.2.2001, is false, as it was never received by the respondents.

9. From the records produced before this Court, it is seen that the petitioner had handed over the charge by affixing his signature, while being relieved from service. The petitioner had challenged the order, dated 21.4.2001, by way of a revision petition filed before the first respondent, under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983. The first respondent had passed a considered order in his Rc.No.16731/2001/VE.4, dated 16.4.2002. Thereafter, the petitioner had filed a review petition, under Section 154 of the Tamil Nadu Co-operative Societies Act, 1983, and the first respondent had passed an order, dated 22.11.2002, confirming the order passed in revision. The orders have been passed by the respondents only after careful scrutiny of the records available before them and by following the due procedure established by law. It is clear from the records placed before this Court and on the submissions made by the learned counsel representing the respondents that the petitioner had submitted a resignation, letter, on 12.4.2001. It had been accepted by the Management of the second respondent Bank and the petitioner had been relieved from service from 21.4.2001. Therefore, the contentions raised by the learned counsel appearing on behalf of the petitioner cannot be accepted. If the resignation letter had been obtained by threat or force, it was open to the petitioner to have made a complaint to the authorities concerned or he could have even taken recourse to criminal proceedings. The petitioner had not chosen to do so. It is also seen that the petitioner has not denied the signature on the resignation letter, dated 12.4.2001, stating that it is not that of the petitioner. Therefore, there is nothing shown to support the contentions raised on behalf of the petitioner, to successfully challenge the orders passed by the respondents in accepting the resignation of the petitioner and thereby, relieving him from service.

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10. In such view of the matter, the writ petition stands dismissed. No costs.

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Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

1. The Joint Registrar of Co-op.
   Societies,
   Coimbatore Region,
   Chinthamani Building,
   Coimbatore

2. The Special Officer
   K.2086-Molakalipalayam Primary
   Agricultural Co-operative Bank,
   Koduvettipalayam Post,
   Karumathampatti via.,
   Palladam Taluk,
   Coimbatore District,

1 CC TO MR.S. DORAISAMY, SR 5095
1 CC TO MR.M.S. PALANISAMY, SR 5118

W.P.No.46601 of 2002

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